

Article - Insurance

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§15–1208.1.

(a) A carrier shall provide the special enrollment periods described in this section in each small employer health benefit plan.

(b) A carrier shall allow an eligible employee or dependent who is eligible, but not enrolled, for coverage under the terms of the employer's health benefit plan to enroll for coverage under the terms of the plan if:

(1) the eligible employee or dependent was covered under an employer-sponsored plan or group health benefit plan at the time coverage was previously offered to the employee or dependent;

(2) the eligible employee states in writing, at the time coverage was previously offered, that coverage under an employer-sponsored plan or group health benefit plan was the reason for declining enrollment, but only if the plan sponsor or carrier requires the statement and provides the employee with notice of the requirement;

(3) the eligible employee's or dependent's coverage described in item (1) of this subsection:

(i) was under a COBRA continuation provision, and the coverage under that provision was exhausted; or

(ii) was not under a COBRA continuation provision, and either the coverage was terminated as a result of loss of eligibility for the coverage, including loss of eligibility as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions towards the coverage were terminated; and

(4) under the terms of the plan, the eligible employee requests enrollment not later than 30 days after:

(i) the date of exhaustion of coverage described in item (3)(i) of this subsection; or

(ii) termination of coverage or termination of employer contributions described in item (3)(ii) of this subsection.

(c) All small employer health benefit plans shall provide a special enrollment period during which the following individuals may be enrolled under the health benefit plan:

(1) an individual who becomes a dependent of the eligible employee through marriage, birth, adoption, placement for adoption, or placement for foster care;

(2) an eligible employee who acquires a new dependent through marriage, birth, adoption, placement for adoption, placement for foster care, or through a child support order or other court order;

(3) the spouse of an eligible employee at the birth or adoption of a child, placement of a child for foster care, or through a child support order or other court order, provided the spouse is otherwise eligible for coverage;

(4) at the option of the SHOP Exchange, an enrollee who is the eligible employee or the spouse of the eligible employee, if:

(i) the enrollee loses a dependent or is no longer considered to be a dependent due to divorce or legal separation; or

(ii) the employee or the employee's dependent dies; and

(5) (i) an eligible employee who becomes pregnant, as confirmed by a health care practitioner; and

(ii) an eligible employee's spouse or dependent who becomes pregnant, as confirmed by a health care practitioner, provided the spouse or dependent is otherwise eligible for coverage.

(d) An eligible employee may not enroll a dependent during a special enrollment period unless the eligible employee:

(1) is enrolled under the health benefit plan; or

(2) applies for coverage for the eligible employee during the same special enrollment period.

(e) (1) The special enrollment period under subsection (c)(1) through (4) of this section shall be a period of not less than 31 days and shall begin on the later of:

(i) the date dependent coverage is made available; or

(ii) the date of the marriage, birth, adoption, placement for adoption, placement for foster care, child support order or other court order, divorce, legal separation, or death, whichever is applicable.

(2) The special enrollment period under subsection (c)(5) of this section shall:

(i) be open for a period of 90 days; and

(ii) begin on the date a health care practitioner confirms the pregnancy.

(f) (1) If an eligible employee enrolls any of the individuals described in subsection (c)(1) through (4) of this section during the first 31 days of the special enrollment period, the coverage shall become effective as follows:

(i) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

(ii) in the case of a dependent's birth, as of the date of the dependent's birth;

(iii) in the case of a dependent's adoption or placement for adoption, the date of adoption or placement for adoption, whichever occurs first;

(iv) in the case of a dependent's placement for foster care, the date of placement; and

(v) in the case of a dependent added due to a child support order or any other court order:

1. the date the child support order or other court order is effective; or

2. for SHOP Exchange plans, if the SHOP Exchange permits the eligible employee to select an effective date based on the date the plan selection is received by the SHOP Exchange:

A. the first day of the month following receipt of the plan selection, if the plan selection is received between the first and fifteenth day, inclusive, of the month; and

B. the first day of the second month following receipt of the plan selection, if the plan selection is received between the sixteenth and the last day, inclusive, of the month.

(2) If an eligible employee enrolls an individual described in subsection (c)(5) of this section in a health benefit plan, the coverage shall become effective on the first day of the month in which the individual receives confirmation of pregnancy.

(g) If the SHOP Exchange permits the special enrollment periods described in subsection (c)(4) of this section, the coverage shall become effective as follows:

(1) for special enrollment periods in the SHOP Exchange due to death of the employee or dependent:

(i) the first day of the month following plan selection; or

(ii) if the SHOP Exchange permits the eligible employee to select an effective date based on the date the plan selection is received by the SHOP Exchange:

1. the first day of the month following receipt of the plan selection, if the plan selection is received between the first and fifteenth day, inclusive, of the month; and

2. the first day of the second month following receipt of the plan selection, if the plan selection is received between the sixteenth and the last day, inclusive, of the month; and

(2) for special enrollment periods in the SHOP Exchange due to divorce or legal separation, if the plan selection is received by the SHOP Exchange:

(i) between the first and fifteenth day, inclusive, of the month, the first day of the month following receipt of the plan selection; and

(ii) between the sixteenth and the last day, inclusive, of the month, the first day of the second month following receipt of the plan selection.

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